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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,630	10/03/2003	Joseph D. Long	2400-663A	9396
27820	7590	03/24/2004	EXAMINER	
WITHROW & TERRANOVA, P.L.L.C. P.O. BOX 1287 CARY, NC 27512			SAN MARTIN, EDGARDO	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/678,630	LONG ET AL. <i>U</i>	
	Examiner Edgardo San Martin	Art Unit 2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 October 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 1-13 and 30-36 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 14-20 and 23-28 is/are rejected.
- 7) Claim(s) 21,22 and 29 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)               |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ .  |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities:

- On page 2, line 23 the serial number of the copending application is missing;
- On page 7, line 4, should read - - 14 - - instead of "18";
- On page 13, line 4 the serial number of the copending application is missing.

Appropriate correction is required.

### ***Claim Objections***

2. Claims 14, 17 and 28 are objected to because of the following informalities:

- In claims 14 and 28, the last two lines should read - - adapted to receive - - instead of "adapter receiver";
- Claim 17 contains the trademark/trade names Lexan and Plexiglas. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph.

See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or

trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe the semi-rigid lens and, accordingly, the identification/description is indefinite.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 14 – 20 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Azima et al. (US 2001/0026625).

With respect to claims 14 and 16, Azima et al. teach a kiosk (Fig.10, Item 90) that interacts with a user, comprising a housing (Fig.10, Item 91); a control system in the housing, an input device coupled to the control system (Fig.10, Item 92); a display coupled to the control system (Fig.10, Item 92), comprising a rigid enclosure (Fig.4, Item

41) having an opening (Fig.4, Item 45) that is smaller in size than the dimensions of the rigid enclosure, a semi-rigid lens (Fig.4, Item 46) placed in the opening, and a magnetic driver (Fig.4, Item 48) inside of the rigid enclosure and attached to the semi-rigid lens wherein the magnetic driver vibrates the semi-rigid lens to create sound, wherein the magnetic driver further comprises a magnetic coil and a diaphragm attached to the semi-rigid lens, and the control system adapted receiver the user's input from the input device and to control information to the display in response thereto (¶ [0050], [0058] and [0059]).

With respect to claim 15, Azima et al. teach wherein the input device is comprised from the group consisting of a keypad, soft keys, touch screen keys, wireless communication device, magnetic-stripe card, optical-coded card, and voice recognition module (Fig.11, Items a – f; ¶ [0060]).

With respect to claim 17, Azima et al. teach wherein the semi-rigid lens is constructed from a material comprised from the group consisting of plastic, glass, Lexan, and Plexiglas, and wherein the semi-rigid lens is transparent (¶ [0048]).

With respect to claims 18 – 20, Azima et al. teach wherein the rigid enclosure contains a LCD module (Fig.4, Item 51) that is viewable through the semi-rigid lens (¶ [0050]), or wherein the semi-rigid lens is attached to the rigid enclosure (Fig.4; ¶ [0050]).

With respect to claim 27, Azima et al. teach wherein his display could be used in ATM's and vending machines, it is inherent that if the display is used in these types of

applications, the display enclosure is environmentally-sealed because is typical to place these type of machine in places where could be subject to environmental occurrences.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 23 – 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azima et al. (US 2001/0026625) in view of Bertagni et al. (US 5,693,917).

With respect to claim 23, Azima et al. teach the limitations discussed in the previous rejections, but fail to disclose the speaker system further comprising a mounting bracket for attaching the magnetic driver to the semi-rigid lens.

On the other hand, Bertagni et al. teach a planar speaker comprising a mounting bracket (Fig.1, Item 22) for attaching a magnetic driver (Fig.1, Item 18) to diaphragm (Fig.1, Item 12).

It would have been obvious to a person with ordinary skill in the art to employ the Bertagni et al. mounting bracket to attach the Azima et al. driver to the semi-rigid lens because the mounting bracket would permit the attachment of the driver to the semi-rigid lens in a manner that would permit the semi-rigid lens to freely vibrate and function as a speaker diaphragm or acoustic radiator.

With respect to claim 24, Bertagni et al. teach wherein the mounting bracket is rectangular in shape and has a left end and a right end and the magnetic driver is attached in between the left end and the right end (Fig.1).

With respect to claim 25, Bertagni et al. teach wherein the mounting bracket is attached to a diaphragm for increased vibration of the diaphragm for increased sound volume (Col.3, Lines 11 – 48).

With respect to claim 26, Bertagni et al. teach wherein the mounting bracket is attached to the diaphragm (Fig.1).

5. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Long (US 5,535,130) in view of Azima et al. (US 2001/0026625).

Long teaches a fuel dispenser (Fig.5) for dispensing fuel into a vehicle, comprising a housing (Fig.5, Item 12); a hose (Fig.5, Item 34) attached to the housing; a nozzle (Fig.5, Item 36) attached to the hose; a control system in the housing that controls the dispensing of fuel through the hose and the nozzle into the vehicle (Fig.5, Items 30 and 40), an input device (Fig.5, Items 42 and 130) coupled to the control system for receiving information from the user during the fueling of the vehicle and the control system adapted to receive the user's input from the input device and to control information and sound to the display in response thereto; a display (Fig.5, Item 125) coupled to the control system that displays information and generates sound to the customer during the fueling of the vehicle (Col.5, Lines 1 – 29 and Col.6, Lines 26 – 36). However, Long fails to teach the display comprising a rigid enclosure having an opening that is smaller in size than the dimensions of the rigid enclosure; a LCD module in the

enclosure and coupled to the control system; a transparent semi-rigid lens placed in the opening and in front of the LCD module; and a magnetic driver inside of the rigid enclosure and attached to the semi-rigid lens wherein the magnetic driver vibrates the semi-rigid lens to create sound.

On the other hand, Azima et al. teach a display comprising a rigid enclosure (Fig.4, Item 41) having an opening (Fig.4, Item 45) that is smaller in size than the dimensions of the rigid enclosure; a LCD module (Fig.4, Item 51) in the enclosure and coupled to the control system; a transparent semi-rigid lens (Fig.4, Item 46) placed in the opening and in front of the LCD module; and a magnetic driver (Fig.4, Item 48) inside of the rigid enclosure and attached to the semi-rigid lens wherein the magnetic driver vibrates the semi-rigid lens to create sound (¶ [0050]).

It would have been obvious to a person with ordinary skill in the art at the time of the invention was made to employ the Azima et al. display with the Long configuration because it would facilitate the intention to communicate a message to an user of the electronic device, increasing the performance of the system by providing a compact audio-visual communication device.

#### ***Allowable Subject Matter***

6. Claims 21, 22 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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***Conclusion***

7. The attached hereto PTO Form 892 lists prior art made of record and not relied upon, the Examiner considered it pertinent to applicant's disclosure.

***Contact Information***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (571)272-2074. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on (571) 272-2071. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Edgardo San Martin  
Patent Examiner  
Art Unit 2837  
Class 181  
March 19, 2004